

## HOUSE BILL NO. 579

INTRODUCED BY V. SMALL-EASTMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF COMMERCE TO IDENTIFY AND DESIGNATE CENSUS-DESIGNATED PLACES FOR THE PURPOSES OF COAL IMPACT GRANTS; CLARIFYING THAT COAL BOARD IMPACT GRANTS MAY BE AWARDED FOR USE IN A CENSUS-DESIGNATED PLACE; REVISING COAL BOARD GRANT RESTRICTIONS BY ALLOWING MONTANA INDIAN TRIBES TO SHARE EQUITABLY IN GRANTS MADE BY THE COAL BOARD; AND AMENDING SECTIONS 90-6-207, 90-6-208, AND 90-6-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 90-6-207, MCA, is amended to read:

**"90-6-207. Priorities for impact grants.** (1) The department of commerce shall biennially designate:

(a) each county, incorporated city and town, school district, and other governmental unit and each census-designated place, as the term is used by the United States bureau of the census, that has had or expects to have as a result of the impact of coal development a net increase or decrease in estimated population of at least 10% over one of the 3-year periods specified in subsection (4);

(b) each county and all local governmental units within each county and each census-designated place in which:

(i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has been granted by the department of environmental quality for a project within the county that will establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce determines will commence production within 2 years;

(ii) the department of commerce has determined that the production of an existing mine will increase or decrease by at least 1 million tons a year and that the new, expanded, or reduced production will commence within 2 years of the designation;

(iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

(iv) an air quality permit has been issued by the department of environmental quality for a new steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of

1 Montana-mined coal and for which the department of commerce determines the construction or operation will  
2 commence within 2 years of the designation;

3 (c) each local governmental unit and each census-designated place located within 100 miles, measured  
4 over the shortest all-weather public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or  
5 (1)(b)(iv); and

6 (d) each local governmental unit and each census-designated place in which:

7 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or  
8 is scheduled to cease within 1 year; or

9 (ii) a steam-generating or other coal-burning facility that has operated under an air quality permit issued  
10 by the department of environmental quality and that has consumed at least 1 million tons of Montana-mined coal  
11 a year has closed or is scheduled to close within 1 year.

12 (2) Designation under subsection (1) of:

13 (a) any local governmental unit and each census-designated place extends to and includes as a  
14 designated unit the county in which it is located; and

15 (b) a county extends to and includes as a designated unit ~~any~~ each local governmental unit and each  
16 census-designated place in the county, ~~that~~ if the local government or the census-designated place contains at  
17 least 10% of the total population of the county.

18 (3) Except as provided in 90-6-205(4)(b), the board may not award more than 50% of the funds  
19 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused  
20 by an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex  
21 to local governmental units other than those governmental units designated under subsection (1).

22 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods as  
23 follows:

24 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

25 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

26 (c) one consecutive 3-year period ending with the current calendar year;

27 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

28 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

29 (5) Attention should be given by the board to the need for community planning before the full impact  
30 is realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly

management of the existing or contemplated growth or decline problems.

(6) All funds appropriated under this part are for use related to local impact.

(7) All designations based on an increase in coal development or in the consumption of coal by a coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may not continue after the department of commerce determines that the mine, railroad, or facility that provided the basis for a designation is contributing sufficient tax revenue to the designated governmental unit to meet the increased costs of providing the services necessitated by the development of the mine, railroad, or facility. However, nondesignated local governmental units and each census-designated place, as the term is used by the United States bureau of the census, continue to be eligible for coal impact grants of not more than 50% of the funds appropriated to the board for grants in circumstances in which an impact exists in a community or area directly affected by:

(a) the operation of a coal mine or a coal-using energy complex; or

(b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

**Section 2.** Section 90-6-208, MCA, is amended to read:

**"90-6-208. Applications for grants.** (1) The governing body of a city, town, county, or school district, any other local or state governmental unit or agency, or the governing body of a federally recognized Indian tribe may apply for a grant to enable it to provide governmental services that are needed as a direct consequence of an increase or decrease of coal development or of an increase or decrease in the consumption of coal by a coal-using energy complex. The board shall prescribe the form for applications. Applicants shall describe the nature of their proposed expenditures and the time involved.

(2) (a) A grant application may specify a census-designated place, as the term is used by the United States bureau of the census, as the impact area within which the grant funds will be expended.

(b) If a grant is awarded pursuant to an application made under subsection (2)(a), the governing body of the county, school district, other local or state governmental unit or agency, or the governing body of the federally recognized Indian tribe, as applicable, is the grantee."

**Section 3.** Section 90-6-209, MCA, is amended to read:

**"90-6-209. Limitations on grants.** (1) The board may commit itself to the expenditure of funds for more than 1 year for a single project, but the board may not obligate funds not yet appropriated by the legislature. The

total amount of grants to state agencies, except grants made pursuant to 90-6-205(4)(b), ~~and Indian tribes~~ may not exceed 7% of the total money allocated to the board during each fiscal year.

(2) A grant to an Indian tribe under 90-6-205 may not be approved by the board unless:

(a) the governing body of the tribe has agreed:

(i) to waive its immunity from suit on any issue specifically arising from the transaction of a grant obtained under this part; and

(ii) to the adjudication of any dispute arising out of the grant transaction in the district court of the first judicial district of the state of Montana; and

(b) approval of the transaction has been obtained from the secretary of the United States department of the interior whenever approval is necessary."

NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

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